

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

LEWIS ELLIOTT,
Plaintiff

v.

VERMONT DEPARTMENT OF
CORRECTIONS, MIKE BELLIZZI,
PETER CANALES, JOHN B. MURPHY,
STEVE WAKEFIELD,
Defendants

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File No. 1:08-CV-42

ORDER

The Magistrate Judge's Report and Recommendation was filed November 6, 2008. (Paper 15.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). Defendants' Motion to Dismiss (Paper 9) is GRANTED. The plaintiff shall be allowed 30 days from the date of this Order to file an amended complaint. Failure to file a properly amended complaint on or before January 5, 2009 will result in the dismissal of all claims with prejudice.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 2nd day of December, 2008.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge